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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,341	10/10/2001	Gregory Roy Paton-Ash	STRATA-6	9796

7590 03/16/2005

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Suite 304  
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EXAMINER
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SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/975,341

Applicant(s)

PATON-ASH ET AL.

Examiner

M. Safavi

Art Unit

3673

**-The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See attached sheet.

**Box 11: Contd.** As for Applicant's arguments within the first paragraph of the response, Applicant in the response of August 24, 2004 supplemented an election of May 17, 2004 by electing to proceed with prosecution of the embodiment of Fig. 1. Claims 24 and 25 are not directed to the embodiment of Fig.1. Rather, claims 24 and 25 are directed to embodiments shown by Figs. 3/4, 5/6, and 7. Applicant had not elected to prosecute any of the embodiments shown by Figs. 3/4, 5/6, and 7. Indeed, Applicant had stated that claim 23 reads upon the elected embodiment of Fig. 1. Applicant had not indicated any of claims 24 and 25 as reading upon the elected embodiment of Fig.1. Each of claims 24 and 25 call for "placing a stop adjacent each end of the primary piece and in spaced relationship with the respective block" which is offered only within the embodiments of Figs. 3/4, 5/6, and 7. Therefore, claims 24 and 25 remain withdrawn from consideration.

As for Applicant's arguments against the rejection of claim 23 over Reinmann et al. in view of Rothenberg, Jr. when considering Cole, Reinmann et al. has been used to show a chock formed with a raised portion along an upper and lower surface thereof with the raised surface being spaced from each end of the primary piece to define notches at each end of the top side as well as the bottom side of the primary piece. Rothenberg, Jr. had been utilized to teach that structural form elements can be made with multiple pieces and particularly that an upper raised portion and a lower raised portion can be formed by attaching separate upper and lower pieces, or blocks, while Cole had been added to show formation of a timber element as by attaching two timber pieces to provide a notch for overlapping arrangement of timbers is old and well known

in the structural element art. Thus, with respect to Rothenberg, Jr., upper and lower elements 55 are attached to base or core element 40/42. Any mention by Rothenberg, Jr. to "without the use of fasteners, adhesives or tools" is in reference to not having to secure one wall log, or "chock", to another. Rothenberg, Jr. is directed to construction elements and the overlapping formation therebetween and is thus, analogous to what is being taught by Reinmann et al. And, one of ordinary skill in the structural element art would turn to Cole for a teaching of forming overlapping lumber elements.

Applicant's arguments against the rejection of claim 23 over German reference 287,299 in view of Rothenberg, Jr. when considering Cole is persuasive and is thus, being withdrawn.

**Other: Contd.** An appeal under 37 CFR § 41.31 was filed in this application on February 22, 2005. Appellant must file a brief in compliance with 37 CFR 41.37 within two months from the date of filing the notice of appeal, or any extension thereof (37 CFR § 41.37(e)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 354**

M. Safavi  
March 05, 2005